

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In Re: ) Case No. 09-42855-659  
 )  
 GERALD MOLLETT ) Chapter 7  
 and )  
 ANNETTE MOLLETT )  
 )  
 Debtors. )  
 )

**UNITED STATES TRUSTEE'S DECLINATION STATEMENT  
PURSUANT TO 11 U.S.C. § 704(b)(2)**

COMES NOW Nancy J. Gargula, the United States Trustee, (the "U.S. Trustee), by and through the undersigned counsel, hereby files this Declination Statement pursuant to 11 U.S.C. § 704(b)(2). In support of this statement the United States Trustee states as follows:

(1) Gerald Mollett and Annette Mollett filed a voluntary petition under Chapter 13 on March 31, 2009 and filed a Motion to Convert to Chapter 7 of the Bankruptcy Code on November 22, 2010. Rice P. Burns serves as the duly appointed Chapter 7 Trustee in this case.

(2) The Debtors are individuals with primarily consumer debt.

(3) An initial Section 341(a) Meeting of Creditors was scheduled for December 30, 2010 and continued to February 1, 2011 and then continued to February 18, 2011 due to inclement weather.

(4) Pursuant to 11 U.S.C. § 704(b)(1)(a), the United States Trustee reviewed all materials filed by the Debtors.

(5) On January 19, 2011, based on the information contained filed in this case by the Debtors, the United States Trustee filed a statement pursuant to 11 U.S.C. § 704(b)(1) indicating that a presumption of abuse existed under the § 707(b)(2) of the Bankruptcy Code in this case. Debtors' Means Test Form 22A shows the presumption arises.

(6) Information received supports conclusion that Debtors' income have been reduced substantially from Currently Monthly Income (CMI). Based on current income levels the presumption would not arise.

(7) Based upon currently available information including the current income of the Debtors, the United States Trustee will not file a motion to dismiss this case under § 707(b).

(8) Debtors have filed their own Motion to Dismiss, as they are ineligible for relief under Chapter 7 due to a prior discharge less than eight (8) years ago 11 U.S.C. § 727(a)(8). Debtors Motion to Dismiss is set for hearing for February 28, 2011. It is anticipated that the Motion will be granted.

**WHEREFORE**, for all of the foregoing reasons, the United States Trustee declines to file a motion to dismiss under 11 U.S.C. § 707(b)(2) in this case.

Respectfully Submitted,

NANCY J. GARGULA  
UNITED STATES TRUSTEE

02/08/2011 \_\_\_\_\_ By: /s/ Leonora S. Long  
Date \_\_\_\_\_ Leonora S. Long, Trial Attorney  
Missouri Bar #31655, Federal ID #31655MO  
Office of United States Trustee  
111 S. 10th Street, Room 6353  
St. Louis, MO 63102  
(314) 539-2980, Fax (314) 539-2990  
Email Address: [leonora.long@usdoj.gov](mailto:leonora.long@usdoj.gov)

## **CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that a copy of the foregoing was mailed, first-class postage paid and/or electronically mailed by the U.S. Bankruptcy Court, Eastern District of Missouri this 8th day of February 2011, to the following:

Tracy A. Brown, Attorney at Law  
Law Office of Tracy A. Brown, P.C.  
1034 S. Brentwood Blvd., Suite 1830  
St. Louis, MO 63117

Rice P. Burns, Jr., Chapter 7 Trustee  
Burns Taylor Heckemeyer & Green LLC  
733 N. Main  
PO Box 67  
Sikeston, MO 63801

/s/ Gloria M. Simmons  
Gloria M. Simmons, Paralegal Specialist